

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTA McAULIFFE INTERMEDIATE SCHOOL
PTO, INC., et al.,

Plaintiffs,

-against-

BILL DE BLASIO, et al.,

Defendants.

**DECLARATION OF
LIANNA WRIGHT**

1:18-cv-11657-ER-OTW

Lianna Wright declares, under the penalties of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am the Executive Director of Research and Policy in the Office of Student Enrollment of the New York City Department of Education (“DOE”). My responsibilities include overseeing the analytical work for admissions processes for 3k, Pre-K, Kindergarten, Gifted & Talented, middle school and high school, as well as conducting research and data analysis to support and inform policy choices as it relates to these processes. I have held this position since August 2017. I have a Bachelor of Arts degree in International Economic Policy from Colorado College and a Master of Arts degree from New York University.

2. The information in this declaration is based on my personal knowledge, discussions with other DOE employees and review of the books and records of DOE. This declaration is submitted in support of Defendants’ motion for summary judgment.

3. For ease of reference I am re-submitting, as Exhibit A, the declaration, dated January 17, 2019, with Exhibits, Nadiya Chadha previously submitted in this case (Dkt # 49), in opposition to Plaintiffs’ motion for a preliminary injunction. That declaration contains some

useful and relevant explanatory background information. (It should be noted that there was a typographical error in paragraph 21 of that declaration that was subsequently corrected. The correct number for the-then predicted decline in Asian students' offers to the Specialized High Schools was 2.1%.) I have supervised Ms. Chadha from 2015 through 2019.

4. Pursuant to state law, to be eligible for the Discovery Program the student must score below the cut-off score for admission to the eight testing Specialized High Schools (the "SHS") on the Specialized High School Admission Test (the "SHSAT"), must be disadvantaged, must be recommended by her current school as having high potential for the SHS program and must successfully complete an intensive summer preparatory program.

5. The term disadvantaged is not defined in state law. Under the definition established by DOE, a student meets the individual disadvantaged criteria if the student satisfies one of the following: 1) the student's family income qualifies the student for free or reduced price lunch; 2) the student's family receives assistance from the New York City Human Resources Administration; 3) the student is in foster care, a ward of the state or in temporary housing income as defined by McKinney-Vento; or 4) the student is an English Language Learner or was an English Language Learner within the previous two school years and enrolled in a DOE school for the first time within the last four years.

6. As discussed below, on June 3, 2018, the Mayor and the Chancellor announced, *inter alia*, that beginning with the next admission cycle (which was for the 2019 entering class), DOE would be modifying this definition to add an additional criterion, that a student currently attend a DOE middle school with an ENI of at least 0.6.

7. The number of seats to be filled in the eight SHS is determined every year for each school in consultation with the principal of each school. The number of seats to be filled, together

with the expected acceptance rate (i.e., percentage of students who received offers who accept them) for that school, which is based on the acceptance rate in prior years for that school, determines the number of offers to be made for that school. Given variations year-to-year in the number of offers and the number of applicants as discussed below, it is more meaningful to make comparisons based on percentages of students, rather than numbers of students.

Historical Data for Classes Entering the Specialized High Schools (the “SHS”) in the Fall of the years 2006-2015 Shows that Asian Students as a Group did Extremely Well in the Admissions Process for the SHS Relative to Other Groups

8. During these years, the Discovery Program was smaller and data showing the number of offers and the racial/ethnic composition of the offers to the Discovery Program is not readily available. What is readily available is the total number of participants in the Discovery Program for classes entering from 2009 through 2015, which varied from 64 in 2009 to 147 in 2015. (See Exhibit B).

9. What is also readily available for the classes entering from 2006 through 2015 is data showing the number of applicants who took the SHSAT, the number of offers and the racial/ethnic composition of those who received offers based on SHSAT score only and the racial/ethnic composition of the applicants and those who received SHSAT score only offers. (See Exhibit C). This shows, when compared to Exhibit B, that between 96-99% of the offers in this period were based on the SHSAT score only, and thus, that this data presents a meaningful picture of the degree of success of Asian students and students of other ethnic/racial groups in the admissions process. For example, in 2009, there were 64 Discovery Program participants, and 5,246 offers based on SHSAT score only, while in 2015, there were 147 Discovery Program participants and 5,104 offers based on SHSAT score only.

10. In terms of Asian students, what the data from 2006 through 2015 shows is an overall pattern where the number of Asian applicants increased, and the percentage of applicants who were Asian increased from 22% in 2006 to 29% in 2015. There is a concomitant rise in the percentage of the SHSAT score only offers that were received by Asian students, from 41% in 2006 to 52% in 2015.

11. The SHSAT score only data further shows that in every year from 2006 to 2015, Asian students received the largest percentage of offers, received far more offers than they would have under the predicted result model where all groups do equally well, and had the highest passing rate (the percent of applicants in the category who received offers) of the four major racial/ethnic groups (Asian, Black, Latino and White students).

12. It should be noted that the category Multi-Racial was added for the class entering the SHS in the Fall of 2014. Prior to that time students in this category were included in the Other/Unknown category. (Exhibit C). Multi-Racial students had an even higher passing rate than Asian students in 2014 and 2015. In 2014, Asian students had a passing rate of 33.1% and Multi-Racial students had a passing rate of 37.5%. In 2015, Asian students had a passing rate of 33.3% and Multi-Racial students had a passing rate of 35.9%.

13. Comparisons between Asian students and Multi-Racial students is of questionable significance however, given the respective size of these two groups. In 2014, there were 8,227 Asian applicants and 112 Multi-Racial applicants. In 2015, there were 7,946 Asian applicants and 128 Multi-Racial applicants. (Exhibit C).

14. While this historical data shows overall patterns and trends over the period, such as the increases in the number of Asian applicants, their percentage of the applicant pool, and their

percentage of the offers received, there are variations from this and other patterns and trends from year to year.

15. The number of offers made based on SHSAT score only varies year-to-year. For example, in 2011 there were 5,404 offers, in 2012 there were 5,360 offers, in 2013 there were 5,229 offers, in 2014 there were 5,097 offers and in 2015 there were 5,104 offers. This variation not only reflects the small changes in the number of seats reserved for Discovery Program participants, it also reflects the overall number of seats that are available in the Specialized High Schools. This may change somewhat year-to-year in individual schools. For example, if one of the Specialized High Schools had a slightly higher than expected acceptance rate in the prior year or two, the principal may request that fewer seats be made available in his or her school the following year to avoid overcrowding.

16. There are additional variations that are based on student choices. The number of students who choose to take the SHSAT varies from year to year. For example, for the 2006 entering class there were 26,715 applicants, for the 2007 entering class there were 25,085 applicants, for the 2008 entering class there were 25,875 applicants, for the 2009 entering class there were 27,654 applicants, for the 2010 entering class there were 27,117 applicants, for the 2011 entering class there were 28,281 applicants, for the 2012 entering class there were 27,612 applicants and for the 2013 entering class there were 26,704 applicants. There is no readily apparent explanation as to why the number of applicants increased by over 1,000 from the 2010 to the 2011 entering classes, nor why the number of applicants then fell by over 1,500 applicants over the next two years.

17. Similarly, there are variations from year to year in the number of students in the various racial/ethnic groups who choose to take the SHSAT. For example, for the 2011 entering

class there were 7,265 Asian applicants, for the 2012 entering class there were 7,119 Asian applicants, for the 2013 entering class there were 7,335 Asian applicants, for the 2014 entering class there were 8,227 Asian applicants and for the 2015 entering class there were 7,946 Asian applicants. There is no readily apparent explanation for why the number of Asian applicants dropped by almost 150 students from the 2011 to the 2012 entering classes, nor why the number of Asian applicants rose by almost 900 from the 2013 to the 2014 entering classes and then dropped by almost 300 applicants the following year.

18. Further, these year-to-year increases and decreases in the number of applicants are not consistent across all four major racial groups. Even when different groups have an increase or a decrease, the extent of the change can vary significantly. There is no readily apparent explanation for these variations among the different racial/ethnic groups

19. For example, between the 2011 and 2012 entering classes, the number of Asian applicants decreased by 146, the number of Black applicants decreased by 140, and the number of White applicants decreased by 160, while the number of Latino applicants increased by 66.

20. Between the 2012 and the 2013 entering classes, the number of Asian applicants increased by over 300, while the number of Black applicants decreased by 556, the number of Latino applicants decreased by 384 and the number of White applicants increased by 28.

21. Between the 2014 and 2015 entering classes, the number of Asian applicants decreased by 281 and the number of Black applicants decreased by 299, while the number of Latino applicants decreased by 5 and the number of White applicants increased by 55.

22. Earlier years show similar inconsistencies among the groups. Between the 2006 and 2007 entering classes, the number of Asian applicants increased by 254, and the number of

White applicants increased by 157, while the number of Black applicants decreased by 517 and the number of Latino applicants decreased by 1,451.

23. Between the 2008 and 2009 entering classes, the number of Asian applicants increased by 23, and the number of Latino applicants increased by 238, while the number of Black applicants decreased by 229, and the number of White applicants decreased by 597.

24. Between the 2014 and 2015 entering classes, the number of Asian applicants decreased by 281, and the number of Black applicants decreased by 299, while the number of Latino applicants decreased by 5, and the number of White applicants increased by 55.

25. Finally, while as noted above, Asian students received the largest percentage of the offers based on SHSAT score only and received far more offers than they would have under the predicted result model and had the highest passing rate of the four major groups in every year between 2006 and 2015, the data shows variations in how well Asian students did year-to-year.

26. For example, for the 2008 entering class, Asian applicants were 24.7% of the applicant pool and received 43.8% of the offers. For the 2009 entering class, Asian students decreased to 23.2% of the applicant pool but the percentage of offers they received increased to 44.2%.

27. These variations in how well groups of students did year-to-year is not limited to Asian students. For example, for the 2008 entering class, White students were 15.5% of the applicant pool and received 24.4% of the offers. For the 2009 entering class, White students decreased to 12.3% of the applicant pool but received 24.3% of the offers. For the 2010 entering class, White students increased to 14.8% of the applicant pool but the percentage of offers they received decreased to 22.8%.

28. For the 2008 entering class, Latino students were 19.1% of the applicant pool and received 7.1% of the offers. For the 2009 entering class, Latino students were 18.7% of the applicant pool but the percentage of offers they received increased to 7.8%. For the 2010 entering class, Latino students increased to 19.9% of the applicant pool but the percentage of offers they received decreased to 6.8%. For the 2011 entering class, Latino students increased to 21.5% of the entering class but the percentage of offers they received decreased to 6.5%.

29. For the 2009 entering class, Black students were 21.2% of the applicant pool and they received 6.4% of the offers. For the 2010 entering class, Black students increased to 23.2% of the applicant pool but the percentage of the offers they received decreased to 5.6%. In the 2014 entering class, Black students had increased to 23.6% of the applicant pool but the percentage of the offers they received decreased to 4.8%.

Offers to Asian Students in 2016-2020 Show No Disparate Impact of the Challenged Changes

30. For these recent years, DOE has readily available complete data showing the racial/ethnic composition of the applicants, the students who received offers based on SHSAT score only and the students who received offers to the Discovery Program. (Exhibits C, SHSAT score-only offer data and D, Discovery Program offer data).

31. This data shows that for the classes entering from 2016 through 2020, Asians have continued to receive the largest percentage of offers, continued to receive far more offers than they would have under the predicted result model where all groups do equally well, and continued to have the highest passing rate of the four major racial/ethnic groups.¹

¹ The Multi-Racial students also continued to do extremely well in this period and had the highest passing rate in 2017 and 2018, with Asian students having the second highest passing rate in those years. Asian students had the highest passing rate in 2016, 2019 and 2020. The number of Multi-Racial applicants continued to be very small. There were between 135 and 362 Multi-

32. Indeed, the data shows that after the challenged changes to the Discovery Program were implemented, there was an increase in the percentage of offers received by Asian students from the percentage received in the year before the changes.

33. It is particularly notable that for the class entering in the year 2020, the year of full implementation of the Discovery Program changes, Asian students received the *highest* percentage of offers, 54.9%, of any year from 2016-2020.

34. The challenged changes to the Discovery Program were implemented over a two-year period. In the first year of implementation, the Discovery Program was expanded to approximately 13% of the seats at the SHS and a criterion of attendance at a middle school with an Economic Need Index of at least 0.6 was added to the criteria for the disadvantaged eligibility requirement for the Discovery Program. In the second year of implementation, the Discovery Program was expanded to approximately 20% of the seats at the SHS and the criterion of attendance at a school with an ENI of at least 0.6 was continued. This was full implementation of the challenged changes.

35. For the class entering in 2018, who took the SHSAT in the Fall of 2017, before the challenged changes were announced, Asian students received 52.2% of the offers.

36. For the class entering in 2019, which was the first year of partial implementation of the Discovery Program changes, Asian students received 52.4% of the offers. For the class entering in 2020, which was the year in which there was full implementation of the changes, Asian students received 54.8% of the offers. This data demonstrates that Asian students have not been adversely affected by the challenged changes.

Racial applicants in these years, whereas the number of Asian applicants varied between 8,052 and 8,809. (Exhs. C and D).

37. This is not surprising because the challenged changes include an expansion of the Discovery Program and offers to the Discovery Program are beneficial to Asian students in terms of admission offers. The data for the years 2016-2020 shows that while Asian students do extremely well in terms of the percentage of the offers they receive, both based on SHSAT score only and for the Discovery Program, the percentage of offers received by Asian students for the Discovery Program was higher in each of these years than the percentage of offers received by Asian students based on the SHSAT score. This was true both before and after the Discovery Program was expanded and attendance at a school with an ENI of 0.6 or above was added as a disadvantaged criterion. A more detailed analysis of the data illustrates this.

38. In the cycle for the class entering in 2016, there were 26,971 applicants who took the SHSAT. Of these, 8,062 or 29.9% were Asian. There were 5,106 offers made to students based on the SHSAT score only. Of these, 2,741 offers, or 53.7% were made to Asian students.

39. In addition, for the class entering in 2016, there were 244 offers made to students for the Discovery Program. Of these, 143 offers, or 58.6% were made to Asian students.

40. Thus, combining offers made based on SHSAT score and for the Discovery Program for the class entering in 2016, there were a total of 5,249 offers made and of these 2,884 offers, or 53.9% were made to Asian students.

41. In the cycle for the class entering in 2017, there were 27,853 applicants who took the SHSAT. Of these, 8,345 or 30.0% were Asian. There were 5,078 offers made to students based on the SHSAT score only. Of these, 2,664 offers, or 52.5% were made to Asian students.

42. For the class entering in 2017, there were 218 offers made to students for the Discovery Program. Of these, 148 offers, or 67.9% were made to Asian students.

43. Thus, combining offers made based on SHSAT score and for the Discovery Program for the class entering in 2017, there were a total of 5,296 offers made and of these 2,812 offers, or 53.1% were made to Asian students.

44. In the cycle for the class entering in 2018, there were 28,333 applicants who took the SHSAT. Of these, 8,809 or 31.1% were Asian. There were 5,067 offers made to students based on the SHSAT score only. Of these, 2,620 offers, or 51.7% were made to Asian students.

45. In addition, for the class entering in 2018, there were 278 offers made to students for the Discovery Program. Of these, 172 offers, or 61.9% were made to Asian students.

46. Thus, combining offers made based on SHSAT score and for the Discovery Program for the class entering in 2018, there were a total of 5,345 offers made and of these 2,792 offers, or 52.2% were made to Asian students.

47. For the class entering in 2019, the year of partial implementation of the changes to the Discovery Program there were 27,521 applicants who took the SHSAT. Of these, 8,451 or 30.7% were Asian. There were 4,798 offers made to students based on the SHSAT score only. Of these, 2,450 offers, or 51.1% were made to Asian students.

48. In addition, for the 2019 entering class, there were 544 offers made to students for the Discovery Program. Of these, 354 offers, or 65.1% were made to Asian students.

49. Thus, combining offers made based on SHSAT score and for the Discovery Program for the 2019 entering class, there were a total of 5,342 offers made and of these 2,804 offers, or 52.5% were made to Asian students.

50. For the class entering in 2020, the year of full implementation of the changes to the Discovery Program, there were 27,831 applicants who took the SHSAT. Of these, 8,726 or 31.4%

were Asian. There were 4,265 offers made to students based on the SHSAT score only. Of these, 2,305 offers, or 54.0% were made to Asian students.

51. In addition, for the 2020 entering class, there were 817 offers made to students for the Discovery Program. Of these, 479 offers, or 58.6% were made to Asian students.

52. Thus, combining offers made based on SHSAT score and for the Discovery Program for the 2020 entering class, there were a total of 5,082 offers made and of these 2,784 offers, or 54.8% were made to Asian students.

53. Reviewing the data for the years 2016-2020 shows that while there are general overall patterns, there are small variations every year. For example, in the three years prior to the challenged changes, the percentage of the offers that Asian students received varied. In 2016 Asian students received 53.9% of the offers, in 2017 they received 53.1% of the offers and in 2018 Asian students received 52.2% of the offers.

54. Other variations include the number of applicants in each of the four major groups. For the 2016 entering class, the number of Asian applicants increased from the prior year, while the number of Black, Latino and White applicants decreased. For the 2017 entering class, the number of Asian, Latino and White applicants increased from the prior year, while the number of Black applicants decreased. For the 2019 entering class, the number of Asian and White applicants increased from the prior year, while the number of Latino and Black applicants decreased. For the 2019 entering class, the number of Latino applicants increased, while the number of Asian, Black and White applicants decreased. For the class entering in 2020, the number of Asians, Black and Latino applicants increased from the prior year, while the number of White applicants decreased.

55. While some of these year-to-year variations were small, others were substantial. For example, for the 2018 entering class, the number of Asian applicants increased by 464, and for the 2017 entering class, the number of Latino applicants increased by 544, which is 9%.

56. After the number of Asian applicants reached 8,809 for the 2018 entering class, the number decreased to 8,451 for the 2019 entering class, which was still larger than the number of Asian applicants in the 2017 entering class, which was 8,345. The number of Asian applicants increased for the 2020 entering class, to 8,726. There is no readily apparent explanation for these variations.

57. The challenged changes were announced on June 3, 2018 (after the 2018 entering class had taken the SHSAT in the Fall of 2017), and implemented over the following two years. The percentage of the offers received by Asian students then rose. For the 2019 entering class the percentage of the offers received by Asian students rose to 52.5% and for the 2020 entering class, at full implementation of the changes, the percentage of the offers received by Asian students rose again to 54.8% in 2020. These small variations do not show any adverse impact on Asian students as a result of the challenged changes, but in fact show a beneficial effect from these changes.

58. It is also significant that during the 2016-2020 period, Asian students as a group continued to be far more successful in the admissions process than the groups of students in the three other major racial/ethnic groups.

59. A comparison of the predicted results to the actual results for these four groups shows how well Asian students did. The comparison is based on the data in Exhibits C and D. I am informed that the predicted result is the result that would be obtained in a racial/ethnic “neutral” process, where applicants of each group were equally successful in receiving offers. The percentage of the offers received by each group would be the same as the group’s percentage of

the applicant pool. The offer data is the combined data for both SHSAT score only and Discovery Program offers. The comparison is presented as Predicted/Actual Percentages.

Year Entered SHS	Total Offers	Asian Student Offers	Asian Student P./A.%	Black Student Offers	Black Student P./A.%	Latino Student Offers	Latino Student P./A.%	White Student Offers	White Student P./A.%
2016	5,350	2,884	29.9/53.9	239	21.9/4.5	353	22.5/6.7	1,418	17.5/26.5
2017	5,296	2,812	30.0/53.1	215	21.0/4.1	357	23.7/6.7	1,438	18.2/27.2
2018	5,345	2,792	31.1/52.2	237	20.2/4.4	357	22.9/6.7	1,374	18.1/25.7
2019	5,342	2,804	30.7/52.5	241	19.9/4.5	406	24.1/7.6	1,411	18.2/26.4
2020	5,082	2,784	31.4/54.8	301	19.9/5.9	440	24.7/8.7	1,127	17.1/22.2

60. This data shows that for the years 2016-2020, the Asian and White students had actual results that exceeded their predicted results while the Black and Latino students had actual results that were less than their predicted results. The data also shows that when the Asian and White student results are compared, the actual results of the Asian students exceeded their predicted results to a greater degree than was the case for the White students – in other words, the Asian students as a group were the most successful in the admissions process of the four major groups.

61. I am informed that the other method that courts have used to evaluate whether there is disparate impact on a particular group is the comparative passing rate analysis. The passing rate for a group is the percentage of applicants in the group who received offers, in other words, the number of offers to members of the group divided by the number of applicants from that group. The analysis is based on the data in Exhibits C and D. Again, the offer data used is the combined data for both SHSAT score only offers and Discovery Program offers.

Year Entered SHS	Asian Student Offers	Asian Student Test Takers	Asian Student Pass Rate	Black Student Offers	Black Student Test Takers	Black Student Pass Rate	Latino Student Offers	Latino Student Test Takers	Latino Student Pass Rate	White Student Offers	White Student Test Takers	White Student Pass Rate
2016	2,884	8,062	35.8	239	5,914	4	353	6,070	5.8	1418	4,729	30.0
2017	2,812	8,345	33.7	215	5,847	3.7	357	6,614	5.4	1,438	5,070	28.4
2018	2,792	8,809	31.7	237	5,730	4.1	357	6,495	5.5	1,374	5,139	26.7
2019	2,804	8,451	33.2	241	5,488	4.4	406	6,622	6.1	1,411	5,008	28.2
2020	2,784	8,726	31.9	301	5,546	5.4	440	6,876	6.4	1,127	4,762	23.7

62. It should be noted that a comparison of the pass rates of the 2019 and 2020 entering classes shows that the 2020 entering class pass rates were affected by the fact that there were 260 fewer offers made in the 2020 admissions cycle than in the 2019 admissions cycle (5,342 offers in 2019 versus 5,082 offers in 2020). Thus, each of the four groups had a lower pass rate in 2020 than it would have had if there had been 5,342 offers made for the 2020 entering class. The predicted/actual result table above shows that for the 2020 entering class, Asian students did better than they had in the prior four years; they received 54.8% of the offers for the 2020 entering class.

The Difference Between Discovery Invitations and Discovery Offers

63. Beginning with the 2019 entering class, the definition of disadvantaged contains an additional criterion. To be disadvantaged for purposes of eligibility for the Discovery Program, a DOE student must attend a school with an Economic Need Index of at least 0.6. If the student attends a non-DOE school, such as a charter or private school, or is home-schooled, then the student is disadvantaged if 60% or more of the families with school-age children living in the census tract in which the student's residence is located have an income below the poverty line, as estimated by the U.S. Census Bureau's American Community Survey Five-Year estimate.

64. This additional criterion has continued unchanged in subsequent years, and there are no current plans to change or modify it.

65. Both before and after the criterion of attendance at a school with a minimum ENI of 0.6 was added, DOE had information as to whether some but not all students who were potentially eligible for the Discovery Program, based on their score on the SHSAT (and beginning with the entering class of 2019, their attendance at a school with an ENI of at least 0.6 or residence in a census tract with a poverty level of 60% or greater) met the individual disadvantaged criteria.

66. Rather than eliminate any students who were potentially eligible for the Discovery Program, DOE sends invitation letters to all students (up to the number of students that are projected as needed to fill the available seats) who may be eligible, based on their SHSAT score and school choices. Beginning with the admission cycle for the 2019 entering class, the invitation letters are sent only to those who also meet the ENI or census tract criterion.

67. There are three different invitation letters sent. For DOE students for whom DOE has records showing that the student meets the individual disadvantaged criteria the letter states that the parent or guardian should submit an application to the student's current school if the student wants to participate in the Discovery Program. (A copy of this letter is submitted as Exhibit E.)

68. For DOE students for whom DOE does not have records showing that the student meets the individual disadvantaged criteria, the invitation letter states that "Information in NYCDOE systems indicates that your child does not meet any of the four requirements listed above [the individual disadvantaged criteria]. If this is correct, do not submit an application for this program—no further action is needed." The letter then states that if the child does meet any of the four requirements the parent or guardian should submit documentation of that together with the application. (A copy of this letter is submitted as Exhibit F.)

69. For non-DOE students the invitation letter states that the child may be eligible and requests that supporting documentation showing that the child meets one of the individual disadvantaged criteria be submitted with the application. (A copy of this letter is submitted as Exhibit G.)

70. In addition, pursuant to state law, no student is eligible to participate in the Discovery Program until their current school recommends them for the Program. This recommendation is not provided until after an application is submitted. Further, for those students for whom DOE does not have records showing that the student meets one of the individual disadvantaged criteria, the documentation submitted by the parent or guardian with the application must be verified before the application can be approved and an offer made.

71. After the application process is completed, the Discovery Program offers are made to those students who have applied and have been found eligible.

72. The invitation data shows that during the years 2016-2020, the number of invitations sent to students whose disadvantaged status was unknown (the “Maybe Disadvantaged”) either exceeded the number of invitations sent to students who were “Definitely Disadvantaged” based on DOE’s records. (See Exhibit H).

73. A comparison of the invitation data to the offer data shows that most of the students who submitted an application, were found eligible and received an offer are in the category of students for whom DOE had records showing that the student met one of the individual disadvantaged criteria at the time the invitations were sent. Students in this “Definitely Disadvantaged” category received 83% of the offers for the 2016 entering class, received 90% of the offers for the 2017 entering class, received 95% of the offers for the 2018 entering class,

received 93% of the offers for the 2019 entering class and received 97% of the offers for the 2020 entering class. (See Exhibit H).

74. This data indicates that many of the students in the Maybe Disadvantaged category, for whom DOE had no records showing that they met the individual disadvantaged criteria, in fact did not meet these criteria and were not eligible for the Discovery Program.

75. I am informed that Plaintiffs' expert witness in this case used the invitation data in his analysis. As stated above, the invitation data includes students who are not eligible to participate in the Discovery Program.

76. In addition, the invitation data is inaccurate in depicting the actual performance of Asian students in the admissions process. The ethnic/racial breakdown of the students in terms of invitations shows a lower percentage of Asian students in the Maybe Disadvantaged category than in the Definitely Disadvantaged category, and most significantly, a lower percentage of Asian students in the Maybe Disadvantaged category and in the total invitations data than in the offers to the Discovery Program data. (See Exhibits D, Offer Data and I, Invitation Data).

77. For the 2016 entering class, Asian students received 58.6% of the offers, the percentage of the Definitely Disadvantaged students who received invitations that were Asian was 56.9%, and Asian students received 40.9% of all the invitations (when the Maybe Disadvantaged students were added to the Definitely Disadvantaged students).

78. For the 2017 entering class, Asian students received 65.1% of the offers, the percentage of the Definitely Disadvantaged students who received invitations that were Asian was 62.9%, and Asian students received 41.7% of all the invitations.

79. For the 2018 entering class, Asian students received 61.9% of the offers, the percentage of the Definitely Disadvantaged students who received invitations that were Asian was 57.9%, and Asian students received 43% of all the invitations.

80. For the 2019 entering class, Asian students received 67.9% of the offers, the percentage of the Definitely Disadvantaged students who received invitations that were Asian was 59.2%, and Asian students received 54.0% of all the invitations.

81. For the 2020 entering class, Asian students received 58.6% of the offers, the percentage of the Definitely Disadvantaged students who received invitations that were Asian was 54.8%, and Asian students received 49.7% of all the invitations.

82. Accordingly, use of the invitation data does not accurately reflect either the students who were eligible to participate in the Discovery Program nor the actual performance of Asian students in the admission process.

The Predictions in the Model

83. The January 17, 2019 Declaration of Nadiya Chadha (Exhibit A) in this case (Dkt # 49), explained that in April 2018 DOE officials were considering possible changes in the Discovery Program for the purpose of increasing the racial, ethnic, geographic and socioeconomic diversity of the students attending the SHS and that she was asked to model the possible effects of changes of these changes. As Ms. Chadha's supervisor, I oversaw her work in developing the model.

84. The model she produced was based on the applicants who took the SHSAT for the 2017 entering class. With an expansion of the Discovery Program to 20% of the seats at the SHS, and an added criterion of attendance at a school with an ENI of at least 0.6, her analysis predicted that there would be an increase in the percentage of Black and Latino students receiving offers to

the SHS, from 10.8% to 16.6%. She stressed that this prediction was just an estimate and that there are many variables that would affect the actual outcome. (Chadha Decl. ¶¶ 19-21, Exh. 1).

85. The model also utilized ENI data that predated the increase in the ENI of many schools. This increase resulted from the State matching process, which identified the families of many more DOE students as recipients of public assistance programs. This in turn increased the number of students with an Economic Need Value of 1.0, which then raised the ENIs of many schools. I understand that this process is described in the Declaration of Eric Ashton.

86. In fact, there has been an increase in the percentage of Black and Latino students who have received offers, although it has been somewhat smaller than estimated in the model. For the entering class of 2020, when the changes were fully implemented, 14.6% of the offers were received by Black and Latino students. (Exhibits C and D).

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Lianna Wright